

APPEAL NO. 020078
FILED MARCH 4, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 17, 2001. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the fifth and sixth quarters. The appellant (carrier) appealed. No response was received from the claimant.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant has a 17% impairment rating. The SIBs criteria in issue were whether, during the qualifying periods for the fifth and sixth quarters, the claimant had earned less than 80% of her average weekly wage (AWW) as a direct result of her impairment from her compensable injury, and made a good faith effort to obtain employment commensurate with her ability to work. The carrier appeals the hearing officer's findings that during the qualifying periods for the fifth and sixth quarters: (1) the claimant was underemployed, earning wages that were less than 80% of her AWW, as a direct result of her impairment from her compensable injury (see Rule 130.102(c)); (2) the claimant was self-employed, working in a position that was relatively equal to her ability to work (see Rule 130.102(d)(1)); and (3) the claimant attempted in good faith to obtain employment commensurate with her ability to work. The carrier also appeals the hearing officer's decision that the claimant is entitled to SIBs for the fifth and sixth quarters. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's findings and decision are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Michael B. McShane
Appeals Judge